

TO INCREASE THE NUMBER OF IRAQI AND AFGHANI
TRANSLATORS AND INTERPRETERS WHO MAY BE AD-
MITTED TO THE UNITED STATES AS SPECIAL IMMI-
GRANTS

MAY 21, 2007.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 1104]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(S. 1104) to increase the number of Iraqi and Afghani translators
and interpreters who may be admitted to the United States as spe-
cial immigrants, having considered the same, reports favorably
thereon with an amendment and recommends that the bill as
amended do pass.

CONTENTS

| | Page |
|---|------|
| The Amendment | 2 |
| Purpose and Summary | 2 |
| Background and Need for the Legislation | 2 |
| Hearings | 3 |
| Committee Consideration | 4 |
| Committee Votes | 4 |
| Committee Oversight Findings | 4 |
| New Budget Authority and Tax Expenditures | 4 |
| Congressional Budget Office Cost Estimate | 4 |
| Performance Goals and Objectives | 5 |
| Constitutional Authority Statement | 5 |
| Advisory on Earmarks | 5 |
| Section-by-Section Analysis | 5 |
| Changes in Existing Law Made by the Bill, as Reported | 6 |

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS SERVING AS TRANSLATORS OR INTERPRETERS WITH FEDERAL AGENCIES.

(a) INCREASE IN NUMBERS ADMITTED.—Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking “as a translator” and inserting “, or under Chief of Mission authority, as a translator or interpreter”;

(B) in subparagraph (C), by inserting “the Chief of Mission or” after “recommendation from”; and

(C) in subparagraph (D), by inserting “the Chief of Mission or” after “as determined by”; and

(2) in subsection (c)(1), by striking “section during any fiscal year shall not exceed 50.” and inserting the following: “section—

“(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

“(B) during any other fiscal year shall not exceed 50.”.

(b) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—Section 1059(c)(2) of such Act is amended—

(1) by amending the paragraph designation and heading to read as follows:

“(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—”;

and

(2) by inserting “and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4))” before the period at the end.

(c) ADJUSTMENT OF STATUS.—Section 1059 of such Act is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

“(1) was paroled or admitted as a nonimmigrant into the United States; and

“(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.”.

PURPOSE AND SUMMARY

Iraqi and Afghani translators and interpreters provide vital assistance in their home countries to the mission of the United States Armed Forces and Department of State. Their work for the United States government often makes them targets of death squads, militias, and al-Qaeda. Many translators and interpreters are forced into hiding and are unable to escape this threat. S. 1104 would expand existing law to authorize 500 special immigrant visas annually for the next 2 years, and expand eligibility for the visas to include both translators and interpreters working for the Chief of Mission or the United States Armed Forces in Iraq or Afghanistan.

BACKGROUND AND NEED FOR THE LEGISLATION

During our Nation’s military operations in Iraq and Afghanistan, nationals of these two countries have risked their lives in order to serve in the key function of translator or interpreter—a critical link between our troops and the Iraqi and Afghani people. As a result of their service, many Iraqi and Afghani employees of the United States Government—targeted by insurgents as U.S. collaborators—have been forced to leave their families and go into hiding. While these employees could eventually be eligible for refugee status,

many have been specifically singled out because of their work for the United States and are in need of immediate resettlement.

In the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109–163), Congress authorized fifty special immigrant visas annually for Iraqi and Afghani translators who were employed for at least a year by the U.S. Armed Forces and who passed required background checks in Iraq prior to filing a visa petition. Since the initial authorization in FY2006, more than 600 Iraqi and Afghani translators working for our Armed Forces have been approved for these visas, and an increasing number of Iraqis and Afghans have come under threat for their cooperation with the United States.

In response to this growing threat and backlog, Senator Richard Lugar (R-IN) introduced S. 1104 on April 12, 2007, with 11 bipartisan original cosponsors. The bill was passed by the Senate on the same day by unanimous consent. Representatives Jeff Fortenberry (R-NE) and Howard Berman (D-CA) introduced H.R. 1790, legislation similar but not identical to S. 1104, in the House on March 29, 2007. There are currently ten times as many translators and interpreters approved and awaiting visas that will allow them to flee threats in Iraq and Afghanistan than there are visas available. Knowing that there are potentially dire consequences in delay, the Committee chose to consider the Senate-passed legislation in the interest of expediting its enactment.

In approving this bill for expedited consideration, the Committee acknowledges the issues that are left unaddressed. There appears to be little reason to limit this relief to those serving with our Missions in Iraq and Afghanistan as a translator or interpreter. Iraqis and Afghans are serving in many different functions in aid of our Missions there, and as their lives come under threat as a result, they would seem similarly deserving of our help in delivering them from harm's way. There is also the question of whether these would-be refugees should be granted access to refugee assistance programs promptly once they arrive in the United States.

Finally, in light of the growing backlog of approved visa petitioners—roughly 500—and the slow process of completing background checks in DHS, the Committee may wish to consider enacting a carryover provision that would permit visas left unused in one fiscal year to be added to the authorized totals in subsequent fiscal years when there is a pending backlog.

In this regard, the Committee wishes to reaffirm that nothing in this legislation changes the authority or the duties of the Department of Homeland Security regarding the completion of the background check and the decision whether to issue a visa.

Though the Administration has not issued a Statement of Administration Position on S. 1104, the Department of State has indicated publicly its support for efforts like S. 1104. Paula Dobriansky, Undersecretary of State for Democracy and Global Affairs recently conveyed that the United States is “committed to honoring our moral debt to those Iraqis who have provided assistance to the U.S. military and embassy.”¹

HEARINGS

The Committee on the Judiciary held no hearings on S. 1104.

¹ Nir Rosen, *The Flight from Iraq*, N.Y. TIMES MAGAZINE, May 13, 2007

COMMITTEE CONSIDERATION

On May 17, 2007, the Committee met in open session and ordered the bill S. 1104 favorably reported with an amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of S.1104.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, S. 1104, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 2007.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1104, an act to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

S. 1104—An act to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants.

Current law allows certain nationals of Iraq or Afghanistan who have worked with the U.S. Armed Forces as translators to apply for permanent U.S. residence as special immigrants. This opportunity is limited to 50 individuals, plus their families, during any fiscal year.

S. 1104 would increase the current limit to 500 translators or interpreters, plus their families, for each of fiscal years 2007 and 2008. Enacting this legislation could affect direct spending and revenues by the Department of Homeland Security, the Department of State, and certain Federal assistance programs. Because so few special visas would be provided, however, CBO estimates that S. 1104 would have no significant budgetary impact.

S. 1104 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, S. 1104, as amended, is intended to increase the ability of the United States Government to provide visas to Iraqi and Afghani translators and interpreters whose lives are threatened as a result of their service to our Nation's missions in Iraq and Afghanistan.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, S. 1104 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Special Immigrant Status for Certain Aliens Serving as Translators or Interpreters with Federal Agencies. Section 1(a) amends section 1059 of the National Defense Authorization Act for Fiscal Year 2006, 8 U.S.C. § 1101 note, to increase the number of special immigrants that can be admitted to 500 for fiscal years 2007, 2008, and 2009. It also expands the eligibility for these visas to include both interpreters and translators and broadens the scope of required employment to include those working for the Chief of Mission

Subsection (b) clarifies that special immigrants entering under this provision will not count against country limits or numerical limits on employment-based or special immigrant status.

Subsection (c) ensures that Iraqi and Afghani nationals that qualify for special immigrant status and either have been paroled into the United States or have already entered the United States in another lawful non-immigrant status, are still eligible for a visa under this section.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1059 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

SEC. 1059. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES.

(a) * * *

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) * * *

(B) worked directly with United States Armed Forces [as a translator], or under *Chief of Mission* authority, as a translator or interpreter for a period of at least 12 months;

(C) obtained a favorable written recommendation from the *Chief of Mission* or a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

(D) before filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by the *Chief of Mission* or a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien.

* * * * *

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this [section during any fiscal year shall not exceed 50.] *section—*

(A) *during each of the fiscal years 2007 and 2008, shall not exceed 500; and*

(B) *during any other fiscal year shall not exceed 50.*

[(2) COUNTING AGAINST SPECIAL IMMIGRANT CAP.—] (2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants de-

scribed in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section *and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).*

(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

(1) was paroled or admitted as a nonimmigrant into the United States; and

(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.

[(d)] (e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.